

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, the Appeals Board makes the following findings of fact and conclusions of law:

The Appeals Board finds that the Award of the Administrative Law Judge and the Nunc Pro Tunc Order set out findings of fact and conclusions of law in some detail and that it is not necessary to repeat those herein. The findings and conclusions enumerated in the Award as corrected by the Nunc Pro Tunc Order of the Administrative Law Judge are accurate and appropriate. The Appeals Board adopts same as its own findings and conclusions as if specifically set forth herein as to the issues raised.

The Appeals Board finds it significant that while Dr. Mark Albers the chiropractor who treated claimant, returned claimant to work, claimant continued to complain of pain related to his work related injuries for several months, through nearly the entire time claimant remained employed with respondent. This, coupled with the testimony of Dr. Edward Prostic, convinces the Appeals Board that claimant had both ongoing symptomatology and specific restrictions stemming from the injury of November 23, 1990. Medical evidence of Dr. Robert Rawcliffe supports a finding that claimant indeed did have specific work restrictions which would prevent him from performing work in the open labor market and earning comparable wages at the level preceding his injury.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Nelsonna Potts Barnes dated June 19, 1996, and the Nunc Pro Tunc Order of June 25, 1996, should be, and are hereby affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of December 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: C. Albert Herdoiza, Kansas City, KS
Kirby A. Vernon, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director